

AN ORDINANCE 100008

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S AQUIFER STORAGE AND RECOVERY INTEGRATION SEGMENT VI PIPELINE PROJECT ("PROJECT") IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY FOR PUBLIC USE AS A PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM ("SAWS") TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES ("THE PROPERTIES") DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC USE AS A PART OF THE PROJECT, TO WIT: A 1.895-ACRE (82,556 SQUARE FEET) PERMANENT EASEMENT AND A 1.925-ACRE (83,834 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ZACHRY REALTY, INC. AND RECORDED IN VOLUME 5279, PAGE 1472, NEW CITY BLOCK 15894; A 0.930-ACRE (40,499 SQUARE FEET) PERMANENT EASEMENT AND A 0.861-ACRE (37,522 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ZACHRY REALTY, INC. AND RECORDED IN VOLUME 5279, PAGE 1472, NEW CITY BLOCK 15894; A 3.077-ACRE (130,996 SQUARE FEET) PERMANENT EASEMENT AND A 2.952-ACRE (128,590 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO SUN NLF, LTD. PARTNERSHIP AND RECORDED IN VOLUME 3377, PAGE 198, NEW CITY BLOCK 16918; A 0.473-ACRE (20,582 SQUARE FEET) PERMANENT EASEMENT OUT OF CONVEYANCE TO WILD HORSE CANYON DEVELOPMENT, L.L.C. AND RECORDED IN VOLUME 3990, PAGE 1537, NEW CITY BLOCK 16918; A 0.776-ACRE (33,815 SQUARE FEET) PERMANENT EASEMENT AND A 1.689-ACRE (73,593 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ABG DEVELOPMENT, LTD. AND RECORDED IN VOLUME 8323, PAGE 346, NEW CITY BLOCK 13808; A 0.371-ACRE (16,164 SQUARE FEET) PERMANENT EASEMENT, A 0.138-ACRE (6,000 SQUARE FEET) TEMPORARY EASEMENT AND A 0.206-ACRE (8,990 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ABG DEVELOPMENT, LTD. AND RECORDED IN VOLUME 8323, PAGE 346, NEW CITY BLOCK 13808, SUBJECT TO OBTAINING SUCH REAFFIRMATIONS AND AUTHORIZATIONS FROM THE CITY COUNCIL AS DESCRIBED ABOVE; AUTHORIZING SAWS' STAFF

AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATOR TO NEGOTIATE AND EXECUTE ALL NECESSARY AGREEMENTS WITH THE OWNERS OF THE PROPERTIES FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS IN THE PROPERTIES AS DESCRIBED ABOVE AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE EASEMENTS DESCRIBED ABOVE; FURTHER AUTHORIZING SAWS' DESIGNATED GENERAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH FINAL JUDGMENT AND ALL NECESSARY APPEALS FOR THE CONDEMNATION OF THE EASEMENT INTERESTS IN THE PROPERTIES AS DESCRIBED ABOVE; APPROVING, RATIFYING, AND DECLARING VALID ALL PRIOR ACTS DONE OR INTERPRETED BY ATTORNEYS, AGENTS, AND EMPLOYEES OF AND/OR ACTING FOR SAWS TO ACQUIRE SUCH EASEMENTS, AND DECLARING THAT THE CONVEYANCE OF ALL SUCH EASEMENT INTERESTS IN THE PROPERTIES DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the San Antonio Water System ("System") has previously relied on the Edwards Aquifer as its sole source of water; and

WHEREAS, the System's long range water resource plan requires diversification of the sources of its water supply; and

WHEREAS, the System is developing the Aquifer Storage and Recovery Project (ASR) on lands located in Bexar County and further located on the Carrizo Aquifer; and

WHEREAS, in order to pump water in the ASR facilities during times of abundant water and then pump water out of the ASR facilities during times of water shortages, it is necessary to build a series of pipelines to and from the ASR facility in south Bexar county; and

WHEREAS, the Aquifer Storage and Recovery Integration Segment VI Pipeline Project (the "project") is a portion of these necessary series of pipelines; and

WHEREAS, it is necessary to construct, operate, and maintain the project located partially upon the properties described herein, which are privately owned; and

WHEREAS, the City of San Antonio acting by and through representatives of the San Antonio Water System, have been unable to acquire the permanent and temporary easements, on the tracts described herein; and

WHEREAS, the San Antonio Water System Board of Trustees (the "Board") finds that the acquisition of such easements is necessary for the best interests of the citizens of the City of San Antonio and the surrounding region; and

WHEREAS, the Board hereby requests that the City of San Antonio adopt an ordinance declaring a public necessity for the acquisition of such easements described herein, through the filing of lawsuits when deemed necessary to construct, operate and maintain the project, through the exercise of its eminent domain authority; and

WHEREAS, the Board further requests the San Antonio City Council to authorize the San Antonio Water System to undertake such proceedings; and

WHEREAS, the City Council of the City of San Antonio desires (i) to reaffirm and declare that the System's Aquifer Storage and Recovery Integration Segment VI Pipeline Project is a necessary public project, (ii) to reaffirm and declare that a public necessity exists for the acquisition of permanent and temporary easement interests across, over, upon and under certain privately owned real properties described below, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the Aquifer Storage and Recovery Integration Segment VI Pipeline Project, (iii) to authorize the System to acquire permanent and temporary easement interests, as described herein, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the Aquifer Storage and Recovery Integration Segment VI Pipeline Project, (iv) to authorize the System, its employees, agents and/or their authorized independent negotiators to negotiate and execute all sales agreements, easements and other necessary documents with the owners of certain privately owned properties described above and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (v) to further authorize the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of these permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (vi) to approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, and (vii) declare that the conveyance of all such permanent and temporary easement interest in certain privately owned properties as described herein shall be to the City of San Antonio for the use and benefit of the System; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. It is hereby reaffirmed and declared that the Aquifer Storage and Recovery Integration Segment VI Pipeline is a necessary public Project.

SECTION 2. It is further reaffirmed and declared that a public necessity exists for the acquisition of these easement interests in the properties described herein and attached hereto and incorporated herein for all purposes as **Attachment I** by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Aquifer Storage and Recovery Integration Segment VI Pipeline.

SECTION 3. The System, acting on behalf of the City of San Antonio, is hereby authorized (i) to acquire permanent and temporary easement interests, as described herein, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Aquifer Storage and Recovery Integration Segment VI Pipeline Project, (ii) that the System, its employees, agents and/or their authorized independent negotiators, to negotiate and execute all sales and other agreements, easements, and other necessary documents with the owners of certain privately owned properties described above, and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, and (iii) the System and its attorneys, to file eminent domain proceedings, if necessary, and to prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein.

SECTION 4. All prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the System to acquire such permanent and temporary easement interests are hereby approved, ratified, and declared valid.

SECTION 5. It is further declared that the conveyance of the permanent and temporary easements shall be to the City of San Antonio for the use and benefit of the System.

SECTION 6. It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 7. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

SECTION 8. This Ordinance becomes effective on the 28th day of November, 2004.

PASSED AND APPROVED this 18th day of November, 2004.



M A Y O R
EDWARD D. GARZA

ATTEST:


City Clerk

APPROVED AS TO FORM:


CITY ATTORNEY